

**GOVERNMENT OF PUERTO RICO
STATE INSURANCE FUND CORPORATION**

**REGULATION TO GOVERN THE WORKERS'
COMPENSATION INSURANCE**

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STATE INSURANCE FUND CORPORATION
REGULATION TO GOVERN THE
WORKERS COMPENSATION INSURANCE

I. INTRODUCTION



Act No. 45 of April 18, 1935, as amended, known as the "Compensation System for Work-Related Accidents Act," created a remuneration framework based on the principle of absolute liability for workers who suffer an injury, a disability, or die as a result of a work-related accident, or who suffer from a disease resulting from being exposed to the risks inherent to their job. The benefit coverage guaranteed by the statute is defrayed from the employer assessed contributions collected on account of the workers' compensation insurance. This insurance of a mandatory and monopolist nature is controlled and administered by the State Insurance Fund Corporation, which is the agency charged with implementing the protective policy furthered by the statute. The interests of employers and employees alike converge in this model under a social contract whereby each party assigns rights and prerogatives for the common good.

Employer immunity is the cornerstone of this insurance, and by virtue thereof, employers duly insured by the State Insurance Fund Corporation (SIFC) benefit from an absolute lack of cause of action when civil claims arising from accidents or illnesses are filed against them. In turn, the worker obtains the remedies established in the insurance coverage in a sure, immediate, and unequivocal manner, through an administrative mechanism, thus dispensing with the complexities of a judicial complaint.

II. LEGAL BASIS

This Regulation is promulgated in accordance with the powers conferred to the Board of Directors and the Administrator of the SIFC under Sections 1B-3 and 1B-

4 of Act No. 45 of April 18, 1935, as amended, known as the "Compensation System for Work-Related Accidents Act," and Act No. 38 of June 30, 2017, as amended, known as the "Government of Puerto Rico Uniform Administrative Procedure Act." These provisions authorize the adoption of rules and procedures as necessary to regulate the efficient operations of the Corporation.

III. PURPOSE

This Regulation establishes the rules that govern the Workers' Compensation Insurance, which shall apply to every policy that is issued, written, renewed, extended, adjusted, cancelled, or settled in the SIFC. Moreover, the Manual of Rules, Classifications, and Rates shall also apply hereto.

IV. APPLICABILITY

The Clauses included in this Regulation shall apply to every employer subject to the provisions of Act No. 45 of April 18, 1935, as amended, known as the "Compensation System for Work-Related Accidents Act."

V. DEFINITIONS

The following words or phrases whenever used herein shall have the meaning stated below, except when the context clearly indicates otherwise:

1. **Administrator** - The Administrator of the State Insurance Fund Corporation.
2. **Extension** - A process whereby a change is made to the conditions of the insurance policy that may or may not require the payment of an additional premium. This is a mandatory process and requires the approval of the Administrator or his authorized representative. It is also known as an endorsement or change in coverage.
3. **Certification of Insurance**.- The Certification of Insurance Policy is a document issued by the State Insurance Fund Corporation that certifies or attests to the effectiveness of the workers' compensation insurance of an employer, and that the requirements of this Act to be eligible for insurance are met at the time of issuance.
4. **Classifications or Codes** - Each of the classes of works and industries included in the Manual of Rules, Classifications, and Rates for a specific policy year.



5. **Corporation** - The State Insurance Fund Corporation or SIFC.

6. **Coverage** - The protection extended to an employer, whether a natural or a juridical person, a government entity, or a municipality, through an insurance policy for work-related injuries that employees may suffer. This protection shall be contingent on the employer having a workers' compensation insurance, meeting all of the requirements, and complying with all the formalities provided for in the applicable law and regulations in effect.

7. **Statement of Payroll** - A report to be completed and submitted to the SIFC by every employer stating the number of workers, employees, or laborers; the occupation or industry class of the workers; the payroll, salaries, wages, and other remuneration paid to employees from July 1 to June 30 of every fiscal year and the address or addresses of the locations where the employer carries out its activities or operations. Said statement shall be submitted on or before July 20.

8. **Statement of Payroll (Short-term Policy)** - A report whereby the employer states the salary and wages paid to workers until the date of completion of a work.

9. **Audit** - An inspection conducted by authorized officials (external accountants-auditors) of the SIFC, who represent the Administrator in the inspection of the accounting books of the insured employers and ascertain accuracy and correctness of the payrolls and other remuneration subject to taxation, for purposes of the workers' compensation insurance, as reported in the Statement of Payroll, as well as the proper classification of their operational risks.

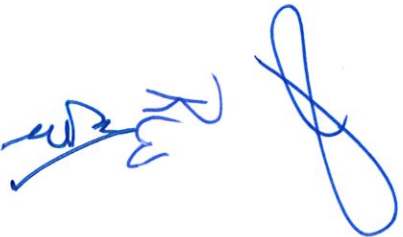
10. **Act** - The "Compensation System for Work-Related Accidents Act," Act No. 45 of April 18, 1935, as subsequently amended.

11. **Manual** - Manual of Rules, Classifications, and Rates in effect for a specific policy year.

12. **Subsistence Pay** - To provide food or cover meals, support, and sustenance.

13. **Insurance Premium Bill** - A document or invoice stating the employer's assessed contribution or premium to be paid for a specific fiscal year.

14. **Employer** - Any natural or juridical person that employs one or more workers to perform a job or works, and pays them in legal tender or in kind.
15. **Government Employer** - Any agency of the Commonwealth of Puerto Rico, Municipality, Board, Commission, Authority, Public Corporation, and/or any other public instrumentality.
16. **Construction Contractor Employer** - Any contractor engaging in activities pertaining to the construction industry in Puerto Rico, and is engaged in the business of construction regularly and consistently.
17. **Short-term or Temporary Employer** - Any employer engaging in activities at a location or site occasionally or for a limited time. It also includes any employer hiring employees or workers when a project or contract is awarded thereto.
18. **Uninsured Employer** - An employer who has been subject to a Decision of the Administrator whereby it is determined that there is no workers' compensation insurance policy, or that, if there is, said policy is not in effect with respect to the work-related injury or occupational illness claimed by a worker or an employee.
19. **SMBs Employer** - An employer with a permanent insurance policy certified by the Puerto Rico Trade and Export Company as a small or medium-sized business eligible for the 50% discount on the premium for incremental jobs, for two years from the date of certification, in accordance with Act No. 120 of July 31, 2014, known as the "SMBs Job Generation and Retention Act."
20. **Regular or Permanent Employer** - Any employer that carries out activities in premises or sites on an continual and recurring basis, and for an undetermined period of time.
21. **Government Insurance Policy** - Any permanent insurance policy written through the State Insurance Fund Corporation for a government employer.
22. **Self-employed Insurance Policy** - A regular or permanent policy written through the State Insurance Fund Corporation, which allows individual employers who are the owners of their business to be self-insured; and grants



them the same benefit coverage established by law for workers and employees.

23. **Domestic Worker Insurance Policy** - A permanent policy with classifications pertaining to domestic services and residential conservation.

24. **Short-term or Temporary Policy** - Any policy written through the State Insurance Fund Corporation for a short-term or temporary employer.

25. **Single Permanent Policy for Construction Contractor Employer** - A permanent policy written through the State Insurance Fund Corporation by a Construction Contractor Employer that meets the requirements established in this Regulation.

26. **Regular or Permanent Policy** - Any policy written through the State Insurance Fund Corporation by a regular or permanent employer.

27. **Web Portal** - An internet platform to provide online services to employers, including the filing of the Statement of Payroll.

28. **Self-employed** - A natural person, an employer, or an owner of the production means of a company, who works full time on his business, and whose gross income does not exceed one million dollars (\$1,000,000.00).

29. **Time Extension** - An extension or postponement of the time period available to the employer as established by law to:

- a. Pay the workers' compensation insurance premium.
- b. File the statement of payroll for the permanent policy.
- c. Extend the effectiveness of short-term policies.

30. **Merit System**.- Is the classification plan based on experience whereunder bonuses are awarded to those employers whose costs are lower than the premium paid during the last three years, excluding the year prior to which the system is applied; or surcharges are applied to those employers whose paid premium is insufficient to cover the costs incurred as a result of accidents they have reported during said period. The percentage of the bonus or surcharge, as provided by law, affects the rate imposed on the employer for the following fiscal year.

31. **Policy Period**.- The time period during which an insurance policy is valid.



VI. GENERAL PROVISIONS

A. PREMIUM DETERMINATION

1. The premium, unless otherwise provided in this Regulation, shall be determined on the basis of total remuneration, that is, the payment in terms of money or any substitute whereby the services rendered are compensated in accordance with the contract for services rendered and shall include the cost of subsistence, lodging, bonuses, or other similar benefit other than a reimbursement for expenditures actually incurred.
2. In those jobs or occupations were subsistence pay and lodging are part of the employee's remuneration such items shall be calculated as part of his salary when determining the premium. In those cases, the employer shall state thus on his payrolls with the appropriate value, and in the reports to be submitted to the State Insurance Fund Corporation.
3. When the employees are paid in whole or in part on the basis of tasks performed or any basis other than for the time actually spent working, or with any substitutes for money, it shall be deemed to be a salary or part thereof and shall be included in the remuneration actually earned and reported when determining the policy premium.
4. The employer shall be required to submit, as requested by the Administrator, proof of the payroll reports submitted to other instrumentalities of the state or federal government for the purpose of verifying that the wages, salaries, and other remuneration reported by the employer are properly declared.

Furthermore, the term 'remuneration' shall include:

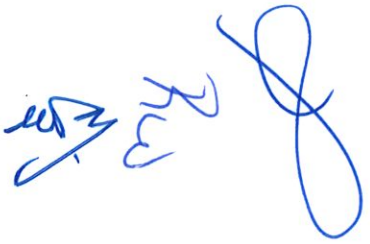
- a. Bonuses that are included in the service contract, regular bonuses or those provided by law; or if there is an expectation of payment, or by reason of the worker or employee's participation in the benefits of the employer, or as shown in the payroll, books, and other accounting records of the employer.
- b. Commissions, which shall include also payments made to sellers of consumption items, merchandise, any type of insurance policy, equipment, vehicles, real estate brokers, and any similar payment.



- c. Extra pay for overtime work.
- d. Pay for holidays.
- e. Pay for vacations, maternity leave, or periods of sickness, and any other type of leave used or accrued.
- f. Payment by an employer of amounts otherwise required by law to be paid by employees to statutory insurance or pension plans, such as the Federal Social Security.
- g. Tips when these are established under agreements or collective bargaining agreements, or as shown in payroll, books, or other accounting records.
- h. The rental value of an apartment or a house provided for an employee by the employer, plus utilities such as water, electricity, telephone, among others.
- i. The value of store certificates, merchandise, credits, or any other substitute for money received by employees as part of their pay.
- j. Any allowance awarded to the employee for travelling as part of the job, if not paid as reimbursement for expenses incurred.
- k. The salary of inters and/or participants of study/work programs. Only the amount that the employee, interns, or student receives as remuneration for the work performed shall be deemed to be salary.

Remuneration shall not mean:

- a. Payments by an employer required by law or any statutory insurance system or pension plan, such as the Federal Social Security.
- b. Prizes or any additional rewards for industrial labor related to inventions, discoveries, or meritorious ideas that inure to the benefit of the employer, its trade or business.
- c. Employer contributions to health insurance.
- d. Employer contributions to pension plans.
- e. Employer contributions to life and/or disability insurance.
- f. Employer contributions to wellness plans.
- g. Pay for dismissals, separation, retirement for years of service, and disability compensation except time worked or vacation leave accrued.



B. INSURANCE WRITING

1. **Regular or Permanent Policy** - The regular or permanent policy shall be valid for a period not to exceed one fiscal year. For purposes of coverage, regular or permanent employer policies shall be deemed renewed for any year following the one during which they were valid as soon as the employer meets the current statutory and regulatory requirements.

Policies shall be extended based on the total payroll of the employer's activities and as shown in its accounting books, payrolls, records, or other reliable documents. If the employer is unable to furnish accounting books, payrolls, records, or other reliable documents, the total payroll shall be calculated, when the policy is extended or the employer is under investigation, based on a reasonable estimate according to the importance, nature, and volume of the employer's operations.



Under no circumstances, a policy covering only a portion of the operations of an employer shall be extended, when the other portion is left uninsured. The total operations of the employer must be covered under one policy.

2. **Short-term or Temporary Policy**.- In the case of short-term or temporary employers, the policy shall be written or extended until the work or project is completed, in accordance with the stipulations of the policy, and the premium payment may be fractioned by semesters in advance. The deferral of the payment in installments shall be on fixed dates, every six months, throughout the policy period, and the last installment shall be made six months before the expiration of the policy. The fixed dates are: July 20, October 20, January 20, and April 20. If any of these dates fall on a non-business day, that is, on a Saturday, a Sunday, or a holiday, the due date for the payment shall be extended to the next business day.

Regarding the cases of employers with short-term policies already eliminated, especially those of contractors engaged in construction which are required to assign one or more of the workers to perform small, emergency, warrantee and/or short-term work in finished projects, such workers shall be covered against work-related accidents, provided that said

employers maintain a regular or permanent policy with the SIFC and include each and every risk under which such workers shall perform said jobs and which were covered under the already eliminated short-term or temporary policy. This permanent policy shall include the salaries, wages, and other remunerations, subject to taxation, of the corporate members, administrators, and office personnel. They shall also be up to date in their assessed contribution payments. Workers used for such purposes shall be duly registered as such in the employer's payroll. These employers shall comply with all the provisions of law, as required by the Administrator of the SIFC. The coverage acquired by employers to cover the aforementioned works shall not be extensive to new operations or projects for which the employers shall write the pertinent insurance policy in accordance with the provisions of law and this Regulation.

3. Single Permanent Policy for Construction Contractor Employers -

Employers of the construction industry may avail themselves of this policy to cover all of the construction operations they carry out across the Island, if they meet the following requirements:

- a. To have an office on a fixed location from where they conduct all of their operations.
- b. To have all accounting books or reliable documents, such as unemployment quarterly returns, Social Security reports, etc.
- c. To have regular employees.
- d. To participate in formal bidding processes.
- e. To have one (1) year of experience writing short-term insurance policies for projects.
- f. To maintain a permanent policy to cover emergency, warrantee, and short-term works, including the risk classification under which such workers shall perform their jobs in projects covered under short-term insurance policies. It shall also include the salaries, wages, and other remunerations, subject to taxation, of the corporate members, administrators, and office personnel.

The employer who availed himself of the permanent policy for contractors shall be issued a Certificate of Insurance for each of the constructions projects performed during the year.

The permanent policy for construction contractors shall provide twenty-four (24) hour-coverage for emergency and warranty works. This policy shall be renewed at the close of the fiscal year by filing a Statement of Payroll on or before July 20.

This permanent policy for construction contractors shall not apply to those employers who perform occasional jobs, since they only employ workers in the event there is a contract or project. These shall continue to write short-term or temporary insurance policies.

4. **Self-employed Insurance Policy.-** In accordance with Act No. 147 of August 1, 2008, known as the "Puerto Rico Small Business Development Incentives Act," workers' insurance coverage may be offered to self-employed business owners who work full time in said business and whose income does not exceed one million dollars.

5. **Government Insurance Policy** - Government insurance policies shall be divided as follows:

- a. State Agencies
- b. Public Corporations
- c. Municipalities and Consortia.

With respect to municipalities, these may classify their employees by segregating the payroll subject to **Section VI. General Provisions, Subsection C. Classifications**, number 9. "**Standard Exceptions**," of this Regulation.

6. **Extension or Endorsement** - New operations and/or activities in venues or locations other than those stated in the original policy shall be covered by an extension or endorsement to the policy.

If the employer does not include in any policy the operation that cannot be deemed to be among the classifications included therein, pursuant to this Regulation such operations shall be left uncovered unless it is timely



covered by the appropriate written notice to the Administrator, or a policy endorsement. This shall not exempt the employer from payment of the premium for the total operations thereof.

7. **Telecommuting Insurance (work-from-home)** - The Corporation shall offer insurance coverage to employees of companies that have agreed and coordinated to carry out their professional activities from their homes. To do so, the home shall have an area identified for such purposes. This coverage includes general office work, consulting, advisory, information search, drafting translation, database maintenance, programming, graphic design, telephone or Internet tasks, computer work, among others. It includes activities outside of the house, such as going to the bank, purchasing office supplies, picking up and sending mail (Act No. 284 of December 22, 2006).

The employer wishing to avail himself of the benefits of this coverage shall certify and submit in writing the following information: name of the employee, street address, monthly salary, schedule, location within the residence where such person works, and job description.

C. CLASSIFICATIONS

1. **Governing Classification** - The prevailing or governing classification to cover the risks of the employer is that which best describes the operations of the employer, excluding the activities of an employer pertaining to the standard exceptions. For employers classified as a "multiple enterprise," as it is defined in this Regulation, the prevailing or governing classification is that which involves the largest amount of payroll, excluding the payroll for standard exceptions.

2. **Single Enterprise** - When the activities of an employer consist of a single operation or a number of separate operations that normally prevail in the business or industry described by a single classification of the Manual, the classification that best describes the industry or business as a whole shall be applied. The division of payroll shall be made pursuant to the provisions on standard exceptions and general exclusions hereinbelow. No division of

payroll shall be permitted in respect to any other operation, even though such operation may be specifically described by some other classification or be conducted in a separate location.

3. **Multiple Enterprise** - When an employer develops different operations that are not included in the governing classification, such operations shall be classified separately if they meet each and every one of the following requirements:
- a. The operations are not described by any of the general inclusions.
 - b. The divisions per classification are not contrary to classification phraseology
 - c. The distinct operations are carried out without an interchange of labor, whether in a separate building or in a separate floor of a building, or on the same floor where the other operations are conducted provided, they are effectively separated from one another by walls.
 - d. The employer conducts such operations as separate enterprises, or the enterprise is divided in departments and the division of payroll for each department is clearly separate in the employer's accounting books.
 - e. The division of payroll shall not be inconsistent with the provisions of this Regulation.



4. **Division of Single Employee's Payroll** - An employee's remuneration shall not be divided between two (2) or more classifications. The entire remuneration of each employee shall be assigned to the highest rated classification applicable to any part of the work or operation performed by the employee. This section shall not apply to construction or erection works, or storage operations in which the division of payroll is allowed, provided that the distribution of time of each employee can be proven with the employer's original time cards.
5. **Construction or Erection Work** - If the activities of the employer include construction or erection work, division of payroll shall be made for each separate and distinct type of construction or erection operation that is specifically described by a classification in the Manual, provided separate

records of payroll are maintained and provided the use of any such classification in connection with a separate job or location is not restricted by a general or specific condition establishing no division of payroll (N.D.P.). Those operations for which separate records of payroll are not maintained shall be assigned to the highest rated classification applicable to the operation.

6. **Miscellaneous Employees**

a. The remuneration of those employees who cannot be assigned to specific classifications such as administrators, superintendents, executive officers (corporate members), power plant employees, watchpersons, shipping and receiving clerks, station operators, area supervisors, and other similar employees shall be assigned to the prevailing or governing classification.

b. When the basic and most important operations of an employer are included in the classifications defined as standard exceptions, as is the case of banks and insurance companies, the payroll of all employees not specifically included in the definitions for such standard exceptions shall be separately classified, all other conditions contained herein notwithstanding.

7. **General Inclusions-** The classifications of the Manual, other than the standard exceptions, include the operations listed hereinbelow and assigned as general inclusions, unless otherwise provided in the classification phraseology. Any operation described by a general inclusion shall nevertheless be subject to division of payroll if conducted as a separate and distinct enterprise and having no relation to the operations described by any other classification.

a. Aircraft travel by employees, as passengers, including employees whose payroll is assigned to the standard exception classifications.

b. Cafes or restaurants.

c. Manufacturing of containers, such as bags, barrels, bottles, boxes, cans, cartons or packing cases.



- d. Hospitals and annexed dispensaries.
- e. Maintenance or ordinary repair of the insured's buildings or equipment when performed by employees of the insured.
- f. Printing and lithography
- g. Warranty work performed by the insured's employees.
- h. Storage of goods or products manufactured and/or acquired.
- i. Gymnasiums and recreational areas the employer provides to employees.
- j. Sporting and social activities sponsored and paid by the employer for his employees.

8. **General Exclusions**- Subject to division of payroll rules, the following operations assigned to general exclusions are excluded from all classifications, including standard exceptions, unless specifically included in the Manual's language of the classification. Operations described by general exclusions shall require division of payroll, notwithstanding that the classification wording may include the term "all" as in such phrases as "all employees" or "all operations," among others.

- a. Aircraft or helicopter operation, or the performance of any work related to aircraft in flight.
- b. Maintenance or repair work if performed by contractors. New construction or alterations done by the insured's employees or by contractors, shall be covered by policies to such effect.
- c. Storage operations and their time clerks, when performed by the insured's employees or contractors.

9. **Standard Exceptions** - The following operations assigned to standard exceptions are subject to division of payroll in connection with any other classification notwithstanding the phrases "all employees" or "all operations." Those operations which specifically provide for the inclusion of certain standard exceptions are exempted. The standard exceptions are the following:




- a. **Clerical Office Employees.** - Those employees whose duties are confined to keeping the books or records of the insured; conducting correspondence; or who are engaged wholly in general office work related to bookkeeping; recordkeeping and conducting correspondence having no regular duty of a non-clerical nature within or in the vicinity of the employer's premises. The entire payroll of any clerical office employee who is exposed to any Operative Hazard of the business shall be assigned to the highest rated classification of work to which the employee is so exposed. The classification shall be applied only to the payroll of persons herein described who work exclusively in areas that are separated from all other work places of the employer by buildings or floors, and within which no work is performed other than clerical office work as defined in this paragraph. The duties of a clerical office employee do not exclude depositing funds at a bank, picking up or delivering the employer's mail, or purchasing office supplies given that they are incidental and directly related to the clerical office work.

- b. **Draftspersons** - Employees engaged exclusively in office work and which work exclusively as Draftspersons without being exposed to any Operative Hazard of the business. The entire payroll of any Draftsperson who is exposed to any Operative Hazard of the business shall be assigned to the highest rated classification of work to which the employee is so exposed.

- c. **Outside Salespersons, Collectors, or Messengers** - are defined as those employees whose principal work is carried out away from the premises of the employer. The definition does not apply to employees whose work includes driving and delivering merchandise. Employees whose work includes driving and delivering merchandise while simultaneously engaging in collection or placing orders shall be classified as:

1. Drivers, if they drive motor vehicles or ride bicycles.



2. Being included in the governing classification if they travel in public service vehicles or on foot.

d. **Drivers and their Helpers-** Those employees whose principal duties are performed in connection with the operation of motor vehicles, including incidental garage employees and employees who ride bicycles in the service of their employer.

D. STATEMENT OF PAYROLL FOR EMPLOYERS WITH A PERMANENT POLICY

Every permanent employer shall be required to file with the SIFC, on or before the July 20 of every year, a statement or report with the number of workers employed by the employer, the job or industry classification of such employees, and the total amount of salaries, wages, and other remunerations paid by the employer to such employees during the previous fiscal year.

1. Content of Statement of Payroll

Every Statement of Payroll shall include the following information:

- a. The remunerations paid to employees during the previous fiscal year; as well as the estimates for the new fiscal year. Payrolls shall be distributed among the classifications assigned to the policy.
- b. The number of employees.
- c. Change of mailing address (as applicable)
- d. A written justification if the employer reduced the payroll during the previous fiscal year, foresees a payroll reduction for the new fiscal year, or ceases operations.
- e. The number of vehicles used by the business, as well as the number of drivers and their salaries.
- f. The nature of the business.
- g. The premises where the employer conducts its operations.
- h. In the case of corporate employers or industrial partnerships, it shall state the names of the Executive Officers, the position they hold, and

their salaries, and other remunerations paid under the appropriate classification.

i. Information about the person or company keeping the accounting books (if applicable).

2. **Supplementary Documents** - A regular or permanent employer shall file, enclosed with its Statement of Payroll, proof of the payroll reports filed with other state or federal government agencies or instrumentalities, as required from the Administrator.

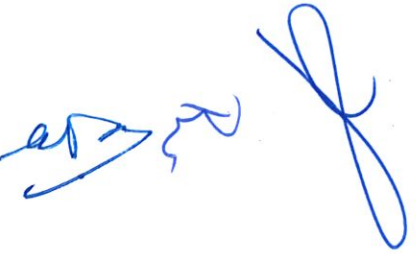
3. **Extension of Time to File** - At the request of the party and for just cause, the Administrator may grant the employer a fifteen (15)-day extension to file the Statement of Payroll. The request shall be made in writing and submitted on or before July 20 for it to be considered. Upon submitting the request, the Administrator shall notify the employer whether or not the request was granted. The employer shall be responsible for ensuring that the request is received and processed in a timely fashion.

4. **Holidays** - If the deadline established by law to file the Statement of Payroll falls on a Saturday, Sunday, or holiday, it shall be extended to the following business day.

5. **Duty to Notify Changes in Street or Mailing Address** - The employer shall notify the SIFC of any changes in the street or mailing address of the business as soon as they occur.

6. **Electronic Filing** - The Statement of Payroll required under this Regulation shall only be filed electronically through the web portal of the State Insurance Fund Corporation (Statement of Payroll- Web).

7. **Proof of Filing** - When the Statement of Payroll is filed electronically, the employer may download a copy of the document which shall be just as valid as a copy of the Statement date stamped by the SIFC, for the purposes of serving as proof of the filing thereof. The copy of the Statement of Payroll which serves as evidence of the filing thereof shall



be that which has no watermark. The Statement has not been filed if the copy contains a watermark.

8. **Electronic Filing Exceptions** - Employers writing domestic worker insurance policies or self-employed insurance policies shall be exempt, but not prevented from filing electronically. Employers who availed themselves of the benefits provided by Act No. 120 of July 31, 2014, known as the "SMBs Job Generation and Retention Act," shall also be exempt from electronic filing. Employers that write this type of policy may file their statement of payroll using the print form.

9. **Failure to File the Statement of Payroll** - Failure to file the Statement of Payroll provided by law, may result in the employer being declared an uninsured employer. Furthermore, it may be subject to the penalties established by law.

10. **Policy Period** - The government insurance policy for work-related injuries shall take effect once the SIFC receives the Statement of Payroll enclosed with the assessed employer contribution, and the statutory requirements are met.

When the employer files the Statement of Payroll by mail, the policy period shall begin on the date of receipt thereof at the offices of the SIFC, unless it was sent via certified mail with return receipt requested. In such a case, the policy period shall begin on the date of the United States Postal Service Postmark.

11. **Statement Prepared by the Administrator on his Own Motion** - When an employer fails to comply with his legal duty to file the Statement of Payroll, the Administrator shall prepare one on his own motion according to the reports and data he was able to obtain and shall proceed to issue the Insurance Premium Bill. However, this shall not exempt the employer from filing his own statement which is one of the statutory requirements to be insured. Any statement filed in such a manner and executed by an Administrator or any of its duly certified agents shall be valid prima facie and sufficient for all legal purposes.

12. **“WEB” Insurance Premium Bill (electronic method)** - When the Statement of Payroll is filed electronically, the SIFC shall immediately issue the appropriate Insurance Premium Bill (invoice) through the Web Portal.

E. STATEMENT OF PAYROLL FOR EMPLOYERS WITH SHORT-TERM POLICIES

Upon completing of the works covered by a short-term or temporary policy, the short-term or temporary employer shall fill out and file with the SIFC a statement or report with the number of workers employed by the employer, the job or industry classification of such employees, and the total amount of salaries, wages, and other remunerations paid to such employees for the project or contract that was the object of the short-term or temporary policy written.

F. SETTLEMENT AND CANCELLATION OF POLICIES

1. **Settlement of Regular or Permanent Policies.**- At the beginning of each fiscal year, or in the event of the settlement or adjustment of a policy, the Administrator shall compare the payroll reported by the regular or permanent employer to the payroll of the previous year, or to the calculated wages used as basis to determine the premium assessed and collected the previous year. If the payroll, as revised, were higher than the payroll used as basis to impose the premium, the Administrator shall assess, impose, and collect additional premiums in the same manner and on the same basis used to assess and collect the original premiums. If the payroll is lower than the payroll used as basis to assess, impose, and collect premiums, the Administrator shall refund or give credit, without interest, to the employer the portion of the premium pertaining to the difference between the actual payroll and the payroll used to assess, impose, and collect the original premiums; provided, that the Administrator can prove to his full satisfaction that the wages, salaries, and other remunerations reported by the employer or recorded in the

employer's books are true and consistent with the employer's actual payroll. Provided, further, that the employer shall be required to make his payrolls, and accounting books and records available to the Administrator, as provided by the laws of Puerto Rico.

2. **Settlement of Short-term or Temporary Policies.**- Upon completing the works covered by the short-term or temporary policy, the Administrator shall compare the payroll reported by the short-term or temporary employer to the estimated payroll used at the time the policy was written and which was used as basis to determine the premium assessed and collected for the duration of the works. If the payroll, as revised, were higher than the payroll used as basis to impose the premium, the Administrator shall assess, impose, and collect additional premiums in the same manner and on the same basis used to assess and collect the original premiums. If the payroll is lower than the payroll used as basis to assess, impose, and collect premiums, the Administrator shall refund or give credit, without interest, to the employer the portion of the premium pertaining to the difference between the actual payroll and the payroll used to assess, impose, and collect the original premiums; provided, that the Administrator can prove to his full satisfaction that the wages, salaries and other remunerations reported by the employer or recorded in the employer's books are true and consistent with the employer's actual payroll.

3. **Insurance Premium Bill** - Insurance Premium Bills sent to any regular or permanent, or short-term or temporary employer for the collection of assessed or imposed premiums or contributions, shall be deemed to be decisions issued by the Administrator for all legal purposes.



**G. EXPLANATION OF TERMS AND PHRASES IN THE
CLASSIFICATION MANUAL**

The terms and phrases used in the classification descriptions are defined and explained below:

1. **“N.O.C.”** - This expression is an abbreviation of the phrase “not otherwise classified.” No classification so qualified shall be assigned in any case where another classification more accurately describes the business or industry or where the language of any classification so qualified prescribes other treatment.

2. **“N.D.P.”** - This expression is an abbreviation of “no division of payroll.” A classification qualified with the letters N.D.P. shall prompt to the division of payroll only in the following case:

- When the limitation refers to one or more specific classifications, the division of payroll in respect to said classifications shall be allowed if the operation is conducted as a separate and distinct enterprise at a separate location and has no relation to the operations covered by the classifications specified by the limitation.

3. **“To be Separately Classified”** - If a classification contains the phrase requiring certain operations to be separately classified, the payroll of such operations shall be separately classified and assessed in accordance with the conditions set forth in section VI. **General Provisions, subsection C. Classifications** of this Regulation.

4. **“All”** - If a classification carries a descriptive phrase beginning with “all,” as in the expression “all employees,” “all operations,” and “all work to completion,” a division of payroll shall not be made for any employee or operations (other than the standard exceptions or general exclusions), without regard to the location of such



operations, except for an operation not incidental to and not usually associated with the enterprise described by such classification.

H. MINIMUM PREMIUM

The minimum premium is the lowest premium required to issue an insurance policy for any period that does not exceed one fiscal year and is calculated in accordance with the formula prepared by the Administrator and stated in the Manual, provided, that if a policy has two or more classifications, the minimum premium for the highest classification rate shall be charged. When the policy period of a short-term or temporary policy exceeds twelve (12) calendar months, the minimum premium for said policy shall be equal to the minimum premium calculated in accordance with the "Minimum Premium Formula" multiplied by the number of years included in said policy period; provided, that a fraction of a year shall be considered an entire year. The minimum premium shall not be subject to the Experience Rating Plan (Merit System).

When the premium, calculated based on the payroll and rate for the applicable classification, is lower than the minimum premium calculated in accordance with the "Minimum Premium Formula," the minimum premium shall be charged. When the premium so calculated is higher than the minimum premium calculated in accordance with the "Minimum Premium Formula," the current premium shall be charged. The final premium in the event of settlement and/or cancellation shall be subject to the minimum premium.

I. MINIMUM FEE

A minimum fee has been established for certain classifications. A minimum fee is the lowest amount for which said classifications may be included in the policy. This minimum fee shall be considered as earned premium for the affected classification and so charged, unless, in applying the rate established by the Administrator to the reported payroll for said classification, a premium in excess of the amount established

as minimum fee is obtained. In such case, the premium so obtained shall be that charged for the classification in lieu of the minimum fee.

J. PREMIUM PAYMENT

1. **Permanent Policies.-** In the case of regular or permanent employers, the payment of the assed contribution for the first semester of the fiscal year shall be equal to fifty (50%) percent of the total of the calculated contribution in accordance with the premium rates applied on the total payroll paid by the employer to its workers and employees during the preceding fiscal year adjusted by the final settlement of the preceding year. The difference or balance of the premium corresponding to the second semester of the fiscal year must be paid at the beginning of the second semester. Both payments must be made within the periods established by the Administrator.

When the employer makes changes in its regular operations or establishes new locations, such employer must obtain the corresponding rider or endorsement for such changes. If the changes involve an additional premium payment, it must be paid at the time of execution of said endorsement.

2. **Short-term Policies** - In the case of short-term or temporary employers, the Administrator shall assess and impose the appropriate premiums according to the activity in which the short-term or temporary employer is engaged for the duration of the operations. These premiums shall be paid upon the execution of the appropriate policies, dividing the payment fiscal year semesters in advance, according to the period during which the salaries or wages to be paid shall be invested. The installment payment of short-term policies may be authorized at the discretion of the Administrator, taking into consideration the employer's premium payment experience with the Corporation.



Nonpayment of the premiums imposed, among other aspects, within the period provided for payment or extension thereof, both in the case of regular or permanent employers and in the case of short-term or temporary employers, shall result in the coverage lapse, while the employer is uninsured, from the date in which the semester began, said employer shall not be entitled to be reimbursed for the period during which the employer was uninsured. No employer shall be provided with coverage for the second semester, if such employer has failed to fully pay the first semester's assessed contribution. In the event of nonpayment of the supplemental or additional contributions, coverage shall lapse back to the due date established by the Administrator for payment or extension thereof.

Every employer shall file its Statement of Payroll on the expiration date of the short-term policy, reporting the payroll or remunerations paid to its employees or workers until the completion date of the works.

In the event an employer pays its premium by check or security the check or security so received by the Administrator or his agent, is not paid on demand, the employer shall be subject to all the penalties provided by law as if said check or security had never been offered in payment.

K. COVERAGE AND DESCRIPTION OF OPERATIONS IN INSURANCE POLICIES

1. Each rate offers full coverage for the risks described in the pertinent classification, subject to the limitations provided in the Act, this Regulation or the policy.
2. The operations object of the insurance shall be described in the policy exactly as shown in the Manual and with the numbers of each classification and rates as appropriate.
3. If the operations object of the insurance are not described by any of the classifications of the Manual, said operations shall be accurately

described in the policy, and be assigned the most analogous operation classification number. In such cases, the policy shall be subject to all the limitations and conditions set forth in these rules in relation to any classification to which said operations are assigned.

4. Every employer subject to the provisions of the Act shall be responsible for paying the insurance premiums of all of its workers or employees, even if these are independent adjusters, contractors, and subcontractors, unless such independent adjusters, contractors, and subcontractors have previously obtained the appropriate insurance.

5. If an employer for which an adjuster, contractor or subcontractor performs works, has failed to secure coverage on his behalf, or if an adjuster, contractor or subcontractor who requests coverage, is unable to furnish the actual payroll status of its workers or employees, the total price agreed with said independent adjuster, contractor, or subcontractor by the principal employer shall be used as a basis to determine its payroll.

6. If it found that the information furnished by the employer at the time of issuing, renewing, or endorsing the policy is incomplete or inaccurate, the Corporation may make, without time limitation, any change in the employer's policy, whether said employer is engaged in permanent or temporary operations or a combination of both, in order to adjust the policy to reality. In such cases, the Corporation will make the necessary changes and will assess, impose, and collect the premium that would have been charged if the correct information had been furnished.

7. The Administrator may make any change in rates or classifications, in order to conform the policy to the provisions of this Regulation or the Manual in effect as of the policy issue date.

8. Any permanent employer may cover extraterritorial activities (outside of the limits of Puerto Rico) under its policy, except for employers



engaged in the construction industry; this shall require the previous authorization of the SIFC. Before commencing operations, the employer shall notify the names of the employees that are carrying out these works, as well as the time during which and the places where such services shall be provided.

In addition, the must comply with the following:

- a. That the principal office and base of operations is located in Puerto Rico.
 - b. That the work contract with the employee is entered into in Puerto Rico.
 - c. That the worker is a resident of Puerto Rico.
 - d. That the travel performed by the worker outside of the territorial limits of Puerto Rico is for short periods of time.
 - e. That the worker returns to Puerto Rico once his task is completed.
9. Employers may obtain an exemption from the payment of premiums for wages paid to highly specialized personnel (technical personnel), that is imported and essential for the operations of their businesses. Strict compliance with the Regulation for Exemptions from the Payment of Premiums for Technical Personnel is required.

10. If warranted, in the judgment of the Administration, all those cases which are not provided for in this Regulation, or in the Manual of Classifications of Occupations and Industries and Rates of the Corporation, the provisions of the Basic Manual of Classifications and Rates, published by the National Council on Compensation Insurance and in the Classifications Code published by said body shall be used supplementarily.

L. TRANSFER OR ASSIGNMENT OF INSURANCE

Every insured employer shall notify the Corporation in writing within a period of ten (10) calendar days from the transaction, any sale or transfer, assignment, payment in kind, in whole or in part of its businesses, farms, establishments or the use thereof, with information



of the name and address of the acquirer, or assignee, without construing that the insurance will cover the operations of the acquirer or assignee, unless the policy is duly transferred. Likewise, said employer shall notify the Corporation of any acquisition, in whole or in part, of businesses, farms, or establishments or the use thereof.

M. EXTENSION OF POLICY PERIOD

In case of temporary or short-term operations or risks, if for any reason whatsoever, the works cannot be completed within the policy period, the employer shall file with the Corporation in writing, not later than the expiration date of the policy, an application for extension of the policy period. If the expiration date of the policy falls on a Saturday, Sunday, or holiday, said application shall be accepted the next business day. If the employer fails to do so, the Corporation may declare, with respect to any accident suffered by its workers, the employer uninsured from the expiration date of the policy.

Compliance with the provisions on Minimum Premium of this Regulation shall be required when extending the effective period of a temporary or short-term policy.

N. PAYMENT DUE DATE EXTENSION

Regular or permanent employers and short-term or temporary employers may be granted a thirty (30)-day extension for making full payment of the appropriate semi-annual contribution or installment. In the case of a regular or permanent policy, no payment due date extension shall be granted for the second semi-annual installment, if the first installment has not been paid. Likewise, in the case of short-term or temporary policies, no payment due date extension shall be granted, if the employer has failed to pay previous semi-annual installments.

If the payment due date extension falls on a Saturday, Sunday, or holiday, the payment due date shall be extended to the next business day.



O. REQUIREMENTS TO BE CONSIDERED AN INSURED EMPLOYER

In order for an employer to be considered as duly insured, said employer must write either a permanent or temporary workers' insurance policy with the Corporation and meet the following requirements:

1. To file a Statement of Payroll on or before July 20 of each year, if it is a permanent policy.
2. To pay its premiums on or before the due date for paying the semi-annual contribution or installment.
3. To include within its policy the risks that cover all the operations and activities of the employer.
4. To include all the locations in which the employer develops its activities or operations.
5. In the case of short-term policies, to apply for an extension of the policy period before the policy expiration date, in the event the works have not been completed.



P. REMEDIES AVAILABLE FOR A DETERMINATION OF UNINSURED

EMPLOYER

Our code of laws provides Uninsured Employers with several mechanisms to seek review of a determination.

1. Reconsideration filed with the State Insurance Fund Corporation.

Any employer who has been adversely affected by a Determination of Uninsured Employer made by the Administrator shall be entitled to file a request for reconsideration with the Corporation within twenty (20) days from the date of notice.

The request for reconsideration shall be filed in writing and clearly state the findings of fact and conclusions of law on which it is supported. A copy of the determination being reviewed as well as any documentary evidence that the petitioner wishes to be considered in the resolution shall be attached to said request.

Once the request for reconsideration of the employer is filed, the Corporation shall consider the request within fifteen (15) days. If the request is rejected outright or no action is taken within fifteen (15) days, the period to file an appeal with the Puerto Rico Industrial Commission shall begin to run again from the notice of said denial or from the expiration of the fifteen (15)-day period, as the case may be.

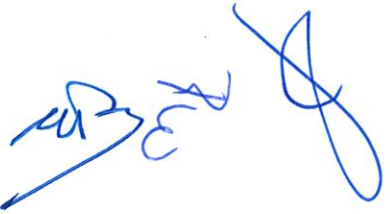
If any determination is made in its consideration, the thirty (30)-day period to appeal shall begin to run from the date of the notice of the new determination of the SIFC finally resolving the motion for reconsideration. Such resolution shall be entered and notified within sixty (60) days from the filing of the Motion for Reconsideration. If the Corporation accepts the motion for reconsideration, but fails to take action with respect to said motion within sixty (60) days from the filing thereof, it shall lose jurisdiction over the same and the time to appeal shall begin to run from the expiration of said sixty (60)-day term, unless the Corporation for just cause and within said sixty (60)-day period, extends the period for resolving for an additional period not to exceed thirty (30) days.

2. Appeal before the Puerto Rico Industrial Commission.

Any employer who has been adversely affected by a Determination of Uninsured Employer made by the Administrator shall be entitled to file a petition for appeal with the Puerto Rico Industrial Commission, which shall be filed within a jurisdictional period of thirty (30) days counted from the date of the notice of the decision, pursuant to Section 9 of Act No. 45, *supra*, 11 L.P.R.A. § 11, subject to the provisions of the subsections related to the request for reconsideration prescribed in this Regulation.

Q. INSURANCE POLICY AUDIT

The Administrator of the State Insurance Fund Corporation may direct that an inspection of all the payrolls and the accounting books of



insured employers be conducted through any representatives duly authorized by him; and all employers shall be required to allow such inspection.

Every employer with employees and workers shall keep a complete record including the name of each of such employees and workers, age, sex, nature of the work performed, salaries, wages, and other remunerations paid to them.

Every employer who knowingly has recorded false information in his employee and workers' records, or in the payrolls, shall be guilty as prescribed by law for failing to keep such records or payrolls, and may be also liable to the SIFC for three (3) times the difference between the assessed contribution paid and the amount that the employer would have been required to pay, should the record have shown the correct required information.

In the cases where the audited employer does not provide reliable accounting records or when the taxable payroll cannot be determined, the official shall make a reasonable estimate of the payroll using alternate information sources according to the nature, relevance, and volume of operations of the business. This estimate may be made using the project's final budget or comparing similar industries and data obtained from government agencies.

The Administrator of the State Insurance Fund Corporation may conduct audits for a term not to exceed five (5) fiscal years, excluding the current fiscal year.

R. PUBLIC HEARINGS

In compliance with the provisions of law and this Regulation, the Administrator shall hold Public Hearings before June first of each year. This allows employers to appear and make allegations regarding their right in connection with occupational and industry groups.



VII. SEVERABILITY

If any section, subsection, or part, of this document were held to be null by a competent Court, said holding shall not affect the remaining provisions thereof, which shall continue to be in effect.

VIII. REPEAL

By approving this document, Regulations No. 8986, Regulation to Govern the Workers' Compensation Insurance adopted on May 24, 2017 and approved on July 19, 2017 by the Secretary of State is hereby repealed.

IX. APPROVAL

This document was approved by the Governing Board of the State Insurance Fund Corporation through Resolution No. **A-76-2019 of December 19, 2019.**

X. EFFECTIVENESS

Once signed and approved, this document shall become effective thirty (30) days after its filing with the Department of State of the Government of Puerto Rico.

*For: Felipe H. Ayala-Díaz
Administrador*

Jesús M. Rodríguez-Rosa, MIS
Administrator